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Scottish Human Rights Commission event on poverty

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It's a really great pleasure to be here and thanks.

As the Human Rights Commissioner of the Council of Europe, it's my job to support the 46 member states of the Council of Europe, obviously including the UK, to be human rights compliant in every aspect.

If you're mandated to support all human rights everywhere in a population of 700 million people, you have to make choices. You have to be really, really vigilant in prioritising and sticking with your priorities and so I do work on a relatively discreet range of issues. One of them is child poverty and the eradication of child poverty as a fundamental issue of human rights, and it's in that context that I obviously so very much welcome the theme of this discussion this morning and the prioritisation that the Scottish Human Rights Commission is giving to the topic.

The primary human rights actors are the national human rights actors and I come to Scotland in deep respect for that reality. And I hope that I can adequately reflect that respect in what I say and in what I do. And within that community of actors it's so important to acknowledge the role of the Human Rights Commission.

I'd like to come back to that later on, but it does play a critically important role. The United Nations has identified the existence of a strong National Human Rights Institution as one of the indicators for the delivery of the Sustainable Development Goals – Goal 16 if anybody wants to be very precise. I see National Human Rights Institutions, such as the Commission, as my primary counterpart at the national level.

But the lifeblood of standing up for human rights in any country is civil society. I define it not just as NGOs, certainly NGOs, certainly voluntary organisations, but also the relevant bits of academia and many other groups as well. You could add in the trade unions here.

To get into the topic of our discussion this morning, the tackling of poverty through the lens of human rights, let me recall a video call I had last year.

With the help of an NGO, I made a video call to a young woman in Orkney who told me about her life experience. She's the eldest child in a large family and they live on a very remote island, and many of the siblings have health-related issues which involve complex medical

care and access to such facilities as oxygen. And they have to see doctors a lot. And she explained to me how extraordinarily challenging and next to impossible it is to live a functioning normal life on a remote island with this range of medical needs spread across the siblings.

It's an extraordinary story. She talked about the difficulty of having the equipment in the house and keeping the oxygen flows in place because much of it had to be paid for privately. She used a term which I won't forget. She said "some days we have to make a choice to breathe or to eat".

But she went on – she talked about the challenge of getting in to see the doctors, going to the hospital, the fact that it's not just a case of getting in the car and going down the road it's a case of getting flights early in the morning, the flight back is late at night. Sometimes you can't get to see the doctor, you have to stay overnight in Glasgow or Edinburgh. And you don't have the money for a hotel, you have to buy your food, you've got to go to a restaurant because you don't have access to a kitchen.

She talked about the inadequacy of social welfare and she gave us many other details. She did all of this so eloquently and so passionately and in such a restrained way that I don't think I'll ever forget the video call.

She demonstrated very clearly a story you all know very well, the story of the manner in which poverty impacts on and triggers negative consequences in just about every dimension of human life.

Just to take some examples from her story: health care, access to education, shelter needs because they needed special arrangements in the house, access to food, breathe or eat, the quality of family life – if all your energy is taken up all the time, trying to figure out how on earth you're going to survive in this context. Her story also brought home to me in a very powerful way this insidious intersectionality and the way in which it massively exacerbates the lived experience of poverty: the extent to which the complex medical needs made the situation so much more challenging. And then of course the dimension of rurality, the remoteness of the island and all the challenges that bears. So then you have this perfect storm of not having much to start with, the medical needs, the remote island and then its impact for well-being.

I told that story deliberately this morning because it shines a light on the importance of the initiative that the Scottish Human Rights Commission is taking with the work outlined in this new report.

Before going to some details, I want to acknowledge that as a non-Scot I perceive that you have achieved some important steps in the combat of poverty in this jurisdiction, from which those of us from elsewhere can learn. I know nothing's perfect but nevertheless there have been some notable developments. I include maybe the most important, certainly most interesting from an international viewpoint, which is the incorporation into domestic law of the Convention on the Rights of the Child. I don't know if you appreciate it, but it's globally

almost unique for a sub-national jurisdiction to incorporate an international human rights treaty. And what a good one to pick because it deals not only with civil rights, but also with social rights, economic rights and it recognises the way they all interplay.

Another achievement that I think needs to be acknowledged is that you have commenced the socio-economic equality duty in equality law. I've been told that that isn't demonstrating an awful lot of impact yet, but nevertheless it's a potential on which to build. South of the border they haven't done that yet, and so they'll be looking up here to see how to best do that.

And you have the binding child poverty reduction targets. Again, I've heard criticism of how they apply in practice but nevertheless they're a good foundation stone already in place.

But of course notwithstanding the foundation stones in place, there is the reality of the scale of poverty in Scotland which is very disturbing. You have one million people in relative poverty in a population of five and a half million. To have a million people in that situation is very disturbing. And then to consider that one in five children in Scotland live in poverty is a notable figure and a reminder of the extent to which so much sustained focus is needed.

But that focus needs something new. Because everywhere in the world, certainly everywhere in Europe, we're struggling with combatting poverty and we're not doing a great job.

I gave Scottish figures but I could give worse figures from other places. So something new, some new quality needs to be injected into the effort. That is why I so very warmly welcome – and I deliberately held the term back until now – the human rights approach to the combat of poverty. I believe this is not just another approach, this is not just a well-meaning effort. This is actually, we have learnt, central to being effective.

Two elements of that.

The first is that I spoke to you earlier about that young woman's account from Orkney. I spoke about how the interplay of poverty and every aspect of her life is so visible and prominent. Well, that immediately triggers attention to human rights because the purpose of human rights law – human rights standards – is to ensure that we can thrive as humans in our complexity and our diversity.

That's what the whole system was built to deliver. A rule book, a carefully negotiated rule book, guaranteeing minimum standards, minimum protections so that we can live. So we can live in the diversity and the complexity of our lives and acknowledging the interplay of the different aspects of our lives.

So that we're free to move around the street, we're free to get a job, we're free to express our opinions. But they wouldn't mean a thing if we didn't have a decent shelter over our heads, if we didn't have adequate food to nourish us, if we didn't have meaningful access to healthcare. In other words there's this indivisibility in our lives of the different dimensions of what it is to be a human. And human rights recognise that. The Convention for the Rights of the Child gets that, and so already we see in the CRC a very clear roadmap of how we can

deliver for children so that they not only get out of poverty but that they thrive. So there's an automatic relationship between human rights and the tackling of poverty.

And then the second thing is that, over decades now, particularly in what we used to call the Global South, there's been vast experimentation in embedding human rights into not just the goals of tackling poverty but the how of tackling poverty.

We've learnt a lot from these efforts over decades on the methodology to effectively deliver on this goal of promoting human thriving. A number of principles have emerged. I'll mention them briefly, but let me say just before that that I'll be looking with huge interest to Scotland to see how you implement these principles because for our parts of the world – the very inequitably distributed but nevertheless rich part of the world – we have to see what applying these principles will look like that's perhaps different to the application in some other part of the global geography.

And what are the three principles?

The first is the principle of normativity. The principle of normativity captures this sense that you're not doing any favours, you're honouring obligations. When our states either ratify or incorporate the human rights treaties, they solemnly oblige themselves to deliver on those treaties. That's what I mean when I say normativity. And that's what makes this approach to combating poverty fundamentally different to other approaches, because you can invoke the law explicitly and in considerable detail.

It'll be really interesting to see what you do with that principle and to what extent you seek to broaden the legal base. I have in mind here incorporating other international human rights obligations into Scottish law such as the socio-economic ones. There's the UN Covenant on Economic, Social and Cultural Rights, the covenant. There's the revised European Social Charter which doesn't get much attention anywhere in the UK and needs a lot more focus.

The second of the three principles I'll mention which is hardwired into the human rights approach is a rigorous attention to non-discrimination and the promotion of equality. This again derives as a duty from the human rights approach and it's radical because it's not about treating everybody equally in some crude sense. It's in ensuring that the most left behind, the most forgotten, the most marginalised are not overlooked, that they're brought into the embrace of the effort.

And in every society it's essential to see who are the most forgotten in your society. I'll come to an example in just a minute from my own work but you need to scrutinise that.

For instance, I deeply appreciated this issue of rurality, of people living in remote locations. That's a group that may not figure on a list of the most marginalised in some other places, but it appears to be the case here.

And then the third of my three principles is participation again derives as a logical inevitability from the approach. If we're talking about human rights and that the person who will benefit

from the efforts is a rights holder, then they have to be brought respectfully into the discussion. They have to be brought respectfully into the figuring out of what we do and how we do it. That's participation.

And we have to never stop lifting ourselves out of models that trigger words like 'beneficiary' or 'recipient' or even 'client'. We're talking about rights holders and partners. How that looks in practice is extremely difficult to implement but it'll be really interesting to see how you are struggling with that here and what you would do with it as you go forward.

Now I look forward very much not only to following the story in Scotland but also hopefully contributing some ideas of my own.

I've embarked in a Europe-wide examination of exactly the issues I've been talking about: how we bring human rights to bear in the combat of child poverty. I'm going into detail in a number of countries including the UK to look at the experience. This work is still very much ongoing and I will at some point later next year publish a report, which I hope will be of help across Europe as everybody seeks to engage these matters.

As I said, I will draw from the experience in Scotland without any doubt. But I'd like to share with you today some very preliminary impressions that I have from this work. I'm going to name just four impressions. I do believe that these are features of the European story.

The first is that there seems to be a tendency across Europe in recognising geographic disparities, which is excellent, recognising that some regions need more attention than others. No problem with that, but at the expense of looking at group disparities – that there are certain groups regardless of geography who through this intersectionality are in particular need of a focus of attention. And we have to be careful not to allow a geographic approach to overwhelm a group approach. They need to be taken side by side.

I'll link three groups that I've encountered where the experience of poverty is acute and it has nothing to do with geography. One is migrants, particularly newly arrived migrants, where the lack of access to social welfare entitlements can trigger the cruellest outcomes, brutal to be honest. Another is Roma, Roma communities regardless of where they are. And then the third is members of the LGBTI communities.

The second of the four learnings that I am picking up is that there's still a tremendous job to be done to get effective coordination of anti-poverty strategies. Not only just better coordination but a coordination that acknowledges the breadth of the life experience of the human that has to be tackled and then joining up all the bits.

In some places, very unhelpfully there are terms for everything. They talk about housing poverty, education poverty, health poverty, or employment poverty. And every one of those poverties is addressed in a different ministry and they don't talk to each other. And that's the antithesis of the human rights approach which needs everything to be joined up.

Another dimension of coordination that I've found to be very poor in some places is with regard to the division of responsibility between central and local government.

The third of my four is the very simple point that we still have a long way to go in many places to get from the concept of beneficiary to rights holder. The idea hasn't embedded itself. I was in a country recently and it was actually, I was looking in that particular context at the treatment of older people in institutions and I asked the older people when I met with them. I said, do you have a committee, how do you express your views to the managers of the facility? And they said, oh we don't do that, everything's perfect, we completely trust management to take care of us.

These are the rights holders. So it's not just about the people with the power and the money and the tools, it's getting people to have a sense that I have rights and I am entitled to make my demands. We have a long way to go there as well.

And then finally I'll stop with this. Everywhere I've been looking at these issues I see an excessive reliance on the voluntary sector and on civil society. Civil society has its critical role but it should not be used to substitute for what should be properly done by the state. And I can't comment on that in Scotland but I've seen it in a number of places.

So I'm going to wrap up. I'm just going to say one last thing and that is that you have a precious thing in Scotland, in your national Human Rights Commission.

And so one of the points I'll be making in meetings today will be that the budget for the Scottish Human Rights Commission is inadequate and it also needs to be given adequate powers to do even better the fine job that it's doing.

The UK will be examined by the world in 2030 on delivery of the Sustainable Development Goals and one of the explicit criteria that will be applied within the United Nations is: are you enabling your national human rights bodies to thrive?

Let's see what the answer will be in 2030.

Thank you very much.